IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16415 OF 2004

AND

CONTEMPT CASE NO.1328 OF 2004

IN WRIT PETITION NO : 16415 of 2004

Between:

Kum. Swapna Rani, D/o. Shivaji,
R/o. Mahaboobnagar, Mahaboobnagar District.

..... PETITIONER

AND

1 The Registrar, Dakshin Bharath Hindi Prachar Sabha, T. Nagar, Madras.
2 The Secretary and Correspondent, Dakshin Bharat Hindi Prachara Sabha, Khairatabad, Hyderabad.
3 The Principal, B.Ed. College, Dakshin Bharat Hindi Prachara Sabha, Khairatabad, Hyderabad.
4 The Secretary to Government, Human Resource development, Sathi Bhavan, New Delhi.
5 The Commissioner for School Education, Lakdikapool, Hyderabad.
6 National Council for Teacher Education, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of

Mandamus directing the action of the 2nd and 3rd respondents for not following the rules prescribed in G.O.Ms.No.91 dated 5-8-2000 in collecting fees for the admission course in B.Ed Hindi in 2nd and 3rd respondents college as illegal, unjust, unconstitutional and against the principles of natural justice and consequently direct hte 2nd and 3rd respondents to admit the petitioner into the B.Ed Course 2004-2005 by charging fees prescribed under G.O.Ms.No.91, dt. 5-8-2000.

Counsel for the Petitioner :MR. SATISH KUMAR BIJAPURI

Counsel for the Respondents 1 to 3: MR.ARAJASHEKAR REDDY (SC FOR CG)

Counsel for the 5th respondent : Govt. Pleader for Education.

Counsel for 6th respondent : Sri B.Adinarayana Rao

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IN CONTEMPT CASE NO : 1328 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 14-09-2004 in WPMP No.21406 of 2004 in W.P.No.16415 of 2004.

Between:

KUM SWAPNA RANI D/o Shivahji,
R/o Mahaboobnagar, Mahaboobnagar Dist.

..... PETITIONER

AND

1 The Registrar,
Dakshin Bharath Hindi Prachar sabha, T.Nagar,
Madras. (RR 1, 4 to 6 are not necessary party)
2 Sirala Dhananjayudu,
Dakshni Bharat Hindi Prachara Sabha, Khairtabad,
Hyderabad.
3 Kum. Veena , Principal,
B.Ed College, Dakshin Bharath Hindi Prachar sabha, Prachar Sabha,
Khairtabad, Hyderabad.
4 the Secretary to Government
Human Resource Development, Sathi Bhavan,
New Delhi. (RR 1, 4 to 6 are not necessary party)

5 The Commissioner for School Education,
Lakdikapool, Hyderabad.
(RR 1, 4 to 6 are not necessary parties)
6 National Council for Teacher Education,
New Delhi.
(RR 1, 4 to 6 are not necessary party)

.....RESPONDENTS

Counsel for the Petitioner : MR. SATISH KUMAR BIJAPURI

Counsel for the Respondents 1 to 3 : MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following common order :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16415 OF 2004

AND

CONTEMPT CASE NO.1328 OF 2004

COMMON ORDER :

W.P.No.16415 of 2004 is filed seeking a declaration that the action of the respondents 2 and 3 in not following the rules prescribed in G.O.Ms.No.91, dated 05-08-2000 for the purpose of collecting the fee for admission into B.Ed. Hindi as arbitrary and illegal.

This Court while directing Rule Nisi, by order dated 14-09-2004 in W.P.M.P.No.21406 of 2004 directed the third respondent – Principal, B.Ed. College, Dakshin Bharat Hindi Prachar Sabha, Khairatabad, to consider the case of the petitioner for admission into B.Ed. Hindi Medium course 2004-05 by charging the fee as specified in G.O.Ms.No.91, dated 05-08-2000.

C.C.No.1328 of 2004 is filed alleging that in spite of the said order dated 14-09-2004 in W.P.M.P.No.21406 of 2004, the respondents refused to give admission to the petitioner on payment of fee prescribed under G.O.Ms.No.91, dated 05-08-2000 and therefore the respondents 2 and 3 herein are liable to be punished under Sections 10 to 12 of the Contempt of Courts Act.

Since the respondents have already filed the counter-affidavit in the writ petition, the Writ Petition and the Contempt Case are heard together and decided by this common order with the consent of the learned Counsel for both the parties.

It is to be noted that G.O.Ms.No.91, Education (SE.TRG.1) Department, dated 05-08-2000 was issued modifying the earlier orders issued in G.O.Ms.No.10, Education, dated 16-1-1991 thereby revising the pattern of tuition fee and special fee to be levied and collected by the colleges of Education in the State with effect from the academic year 2000-01. As per the said notification issued in exercise of the powers conferred under Section 7(1) of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (for short, 'the Act'), the tuition fee and special fee to be collected by the Aided B.Ed. Colleges shall be

Rs.3,000/- per annum and Rs.800/- per annum respectively. Similarly, so far as the unaided B.Ed. colleges are concerned, the tuition fee shall be Rs.10,000/- per annum and the special fee shall be Rs.800/- per annum. Thereafter, some of the students who were pursuing B.Ed. Course in Dakshin Bharat Hindi Prachara Sabha filed writ petitions in this Court aggrieved by the alleged action of the Dakshin Bharat Hindi Prachara Sabha (for short 'Sabha') in charging fee exceeding the tuition fee and special fee prescribed under G.O.Ms.No.91, dated 5-8-2000. A learned Single Judge of this Court dismissed the writ petitions holding that the Sabha is an institution functioning under the Central Act 14 of 1964 and does not come within the ambit and purview of Act 5 of 1983 or the Rules made thereunder and therefore neither the State Government nor the Commissioner of School Education can exercise any control over the affairs of the Sabha. However, on Appeal, a Division Bench of this Court reversed the said order and held that the Dakshin Bharat Hindi Prachara Sabha cannot demand any fee which would be excessive of fee prescribed by the State. The Division Bench while allowing W.A.No.1703 of 2000, by judgment dated 18-08-2001 categorically held that G.O.Ms.No.91, dated 05-08-2000 shall apply to Dakshin Bharat Hindi Prachara Sabha also.

The case of the petitioner in the present writ petition is that in pursuance of the notification dated 24-05-2004 issued by the 1st respondent Sabha for admission of B.Ed. course 2004-05, she has applied and having appeared in the entrance examination, she was selected and her name was included in the merit list displayed on the notice-board. Subsequently, a notice was displayed on the notice-board for payment of the fees payable from 23-07-2004 to 30-07-2004. The petitioner alleges that when she went to the 2nd respondent institution on 30-07-2004 the respondents 2 and 3 demanded Rs.25,000/- towards admission fees. The petitioner contends that as per G.O.Ms.No91, dated 5-8-2000 the fee payable was only Rs.3,000/- and therefore she approached the 5th respondent – Commissioner for School Education bringing to his notice the demand made by the respondents 2 and 3, however, there was no response. Hence, this writ petition seeking the above relief.

Having ordered Rule Nisi, in the light of the law declared by the Division Bench in

Writ Appeal No.1703 of 2000, this Court granted the interim order in W.P.M.P.No.21406 of 2004 directing the Dakshin Bharat Hindi Prachara Sabha to consider the case of the petitioner for admission into the B.Ed. course by charging the fee specified in G.O.Ms.No.91, dated 5-8-2000.

In the counter-affidavit filed on behalf of the respondents 1 to 3 in the writ petition, all the allegations made by the petitioner are denied and it is stated that the B.Ed. Colleges run by the Sabha are unaided as the Sabha is not receiving any grant-in-aid either from the Government of A.P. or Central Government. The allegation that the respondents 1 and 2 demanded a sum of Rs.25,000/- towards the fee has been specifically denied and it is stated that the Sabha is collecting only a sum of Rs.10,800/- from the students as per the orders issued in G.O.Ms.No.91, dated 5-8-2000 since the B.Ed. colleges run by the Sabha are un-aided. It is also stated that the petitioner was selected in the second list of B.Ed. Hindi course for the academic year 2004-05 and she was asked to appear before the Principal between 22-07-2004 to 30-07-2004 for admission with all original certificates. However, the petitioner failed to appear before 4.30 pm on 30-07-2004 as specified in the notice dated 22-07-2004 issued by the 3rd respondent. It is categorically stated that the petitioner never met the 2nd respondent at any stage and therefore the present writ petition is misconceived and liable to be dismissed.

In the contempt case, on behalf of the Dakshin Bharat Hindi Prachara Sabha, a counter-affidavit has been filed by its Secretary denying the allegations made by the petitioner that exorbitant fee was demanded from the petitioner for providing admission. It is categorically stated that they are strictly adhering to the Norms prescribed in G.O.Ms.No.91, dated 5-8-2000 and charging the fee as prescribed in the said G.O. as applicable to the unaided colleges. It is further stated that the petitioner obtained interim orders from this Court in W.P.M.P.No.21406 of 2004 misrepresenting the facts and making a false allegation that the Dakshin Bharat Hindi Prachara Sabha was not following the Norms prescribed under G.O.Ms.No.91, dated 5-8-2000. As a matter of fact, the petitioner who was selected in the second list of the B.Ed. Hindi course for the year 2004-05 was asked to appear before the Principal between 22nd July, 2004 and 30th July, 2004 for admission with all original

certificates. However, the petitioner failed to appear and she never met the respondents 2 or 3 at any point of time as pleaded by her. Having failed to appear on the scheduled date for admission, she filed the writ petition as well as the contempt case with all false averments and therefore the contempt case is misconceived and interim order itself is liable to be vacated.

The petitioner filed an affidavit in reply disputing the stand taken by the respondents and stating that as a matter of fact the original certificates of the petitioner were verified by the respondents on 27-06-2004 itself and therefore the allegation in the counter-affidavit that the petitioner failed to attend before the respondents on or before 30th July, 2004 for taking admission is false.

I have heard the learned Counsel for both the parties and perused the material on record.

There can be no doubt about the fact that as per the orders in G.O.Ms.No.91, dated 5-8-2000 whereunder the pattern of tuition fee and special fee to be collected by the Colleges of Education was prescribed, the un-aided colleges are entitled to collect a sum of Rs.10,000-/ towards tuition fees, whereas the tuition fee for aided colleges is only Rs.3,000/-. It is also not in dispute that in view of the law declared by the Division Bench in W.A.No.1703 of 2000, the 1st respondent Sabha is bound by the orders in the said G.O.Ms.No.91, dated 5-8-2000. However, the specific case of the respondents 1 to 3 is that since the B.Ed. college being run by the Sabha is an un-aided college, it is entitled to collect a sum of Rs.10,000/- per annum towards the tuition fee and Rs.800/- per annum towards special fee and thus they are collecting a sum of Rs.10,800/- from the students strictly in accordance with G.O.Ms.No.91, dated 5-8-2000. It is also their case that the petitioner never appeared before the 2nd respondent at any point of time seeking admission. Though the petitioner disputes the same and states that the respondents 2 and 3 demanded a sum of Rs.25,000/- towards the fee and on that ground denied admission to her, the said question being a pure disputed question of fact it is neither possible nor permissible for this Court to

adjudicate upon the same while exercising the jurisdiction under Article 226 of the Constitution of India.

In the absence of any material to show that the petitioner appeared before the 2nd respondent on or before 30-07-2004 and that she was denied admission illegally, the relief as prayed for in the writ petition cannot be granted. Accordingly, recording the statement of the respondents 1 to 3 that they are collecting only a sum of Rs.10,800/- in terms of G.O.Ms.No.91, dated 5-8-2000, the Writ Petition is dismissed.

Even with regard to the allegations in the Contempt Case, I am unable to hold that there is any willful disobedience on the part of the respondents in complying with the order dated 14-09-2004 in W.P.M.P.No.21406 of 2004 so as to take cognizance under the provisions of the Contempt of Courts Act.

The order in W.P.M.P.No.21406 of 2004 is to consider the case of the petitioner for admission by charging the fee specified in G.O.Ms.No.91, dated 5-8-2000. It is not the case of the petitioner that the respondents have demanded excessive fee in spite of the orders of this Court in W.P.M.P.No.21406 of 2004. As can be seen from the averments in the affidavit filed in support of the contempt case and the legal notice dated 28-09-2004 issued on behalf of the petitioner the only allegation appears to be that the respondents refused to give admission to the petitioner stating that the admissions have been closed.

As a matter of fact, in the counter-affidavit filed, the respondents have categorically stated that they are charging the fee strictly in accordance with G.O.Ms.No.91, dated 5-8-2000 as applicable to the unaided colleges and that they have never charged fees in excess to the fees prescribed under G.O.Ms.No.91. Whereas the interim order was granted on
14-09-2004, the vacate petition was filed within two weeks on
29-09-2004. Thereafter the contempt case was filed on
07-10-2004. Viewed from any angle, there is absolutely no reason to hold that the

respondents have acted in violation of the orders of this Court.

In the result, both the Writ Petition and Contempt Case are dismissed. No order as to costs.

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G. ROHINI, J

Dated: 23 -02-2005.

gbs

Note:- Office is directed to put up a copy

of this common order in C.C.No.1328 of

2004 after signatures of the Hon'ble Judge.

(B/O)

gbs

To

1 The Registrar, Dakshin Bharath Hindi Prachar Sabha, T. Nagar, Madras.
2 The Secretary and Correspondent, Dakshin Bharat Hindi Prachara Sabha, Khairatabad, Hyderabad.
3 The Principal, B.Ed. College, Dakshin Bharat Hindi Prachara Sabha, Khairatabad, Hyderabad.
4 The Secretary to Government, Human Resource development, Sathi Bhavan, New Delhi.
5 The Commissioner for School Education, Lakdikapool, Hyderabad.
6 National Council for Teacher Education, New Delhi.

7. Two CD copies.

8. Two CCs to G.P. for School Education, High Court of AP Bldgs, Hyderabad (OUT).